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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

FILE:

MSC 02 295 61534

Office: NATIONAL BENEFITS CENTER

Date: AUG 02 2004

IN RE:

Petitioner:  
Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to Section 101(a)(15)(K) of the Immigration and  
Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to  
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was approved and approval was subsequently revoked by the Acting Director, National Benefits Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Syria, as the spouse of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director revoked approval of the petition after determining that the beneficiary attempted or conspired to enter into a marriage for the purpose of evading immigration laws. *Notice of Revocation*, dated September 15, 2003.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

In response to the director's Notice of Intent to Revoke Approved Petition, the petitioner submitted an affidavit from Barbara Prestileo; a Celebration of Marriage Certificate; a living arrangements statement; copies of airline tickets; a copy of a group enrollment change form; copies of email communication between the petitioner and the beneficiary; prepaid phone cards and several wedding and social photographs.

On appeal, counsel indicates that the petitioner will submit a brief and ample evidence to overcome the requisite evidentiary standard and establish that the petitioner and beneficiary's marriage is legitimate. *Form I-290B*, dated September 23, 2003. The AAO notes that approximately 10 months have elapsed since the appeal was filed and no additional documentation has been received into the record.

8 C.F.R. § 103.3(v) (2002) states in pertinent part:

- (v) Summary Dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has failed to identify any erroneous conclusion of law or statement of fact in his appeal. The motion will therefore be summarily dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.



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The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is summarily dismissed.